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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT SEATTLE

7 MUFG UNION BANK, N.A., a national  
8 association,

9 Plaintiff,  
10 v.

11 AARON TYLER, an individual, *et al.*,  
12 Defendants.

Case No. C17-1766RSM

ORDER DENYING PRELIMINARY  
INJUNCTION

13 THIS MATTER came before the Court on Plaintiff's Motion for Preliminary Injunction.  
14 Dkt. #5. On November 28, 2017, this Court entered a Temporary Restraining Order against  
15 Defendants. Dkt. #12. Plaintiff had alleged that a group of its former employees resigned *en*  
16 *masse* after planning for several months to take trade secrets, documents and confidential  
17 information that they are now utilizing to take business and unfairly compete with it. Dkt. #5.  
18 Based on the record before it at that time, the Court found that Plaintiff had sufficiently  
19 demonstrated that it was entitled to a TRO. Dkt. #12. The Court then scheduled a hearing on  
20 Plaintiffs' Motion for Preliminary Injunction, on Thursday, December 7, 2017, at which time  
21 Defendants were asked to Show Cause why a preliminary injunction should not issue. *Id.* The  
22 Court heard oral arguments from the parties on December 7<sup>th</sup>, and allowed the submission of  
23 additional documentary evidence for the Court's consideration. The Court considered those  
24 exhibits that were presented during the hearing, as well as those exhibits and briefing submitted  
25 between the time the Court issued the TRO and heard oral argument. Dkts. #18-29, 34-48 and 51-

1 54. The Court then informed the parties that the Motion for Preliminary Injunction would be  
2 DENIED. Dkt. #55. This written Order memorializes the oral ruling.

3 The Ninth Circuit has described the standards for deciding whether to grant a motion for a  
4 preliminary injunction:  
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6 To obtain a preliminary injunction, the moving party must show  
7 either (1) a combination of probable success on the merits and  
8 the possibility of irreparable injury, or (2) that serious questions  
9 are raised and the balance of hardships tips sharply in its favor.  
10 These formulations are not different tests but represent two  
11 points on a sliding scale in which the degree of irreparable harm  
12 increases as the probability of success on the merits decreases.  
Under either formulation, the moving party must demonstrate a  
significant threat of irreparable injury, irrespective of the  
magnitude of the injury.

13 *Big Country Foods, Inc. v. Bd. of Educ. of Anchorage Sch. Dist.*, 868 F.2d 1085, 1088 (9th Cir.  
14 1989) (citations omitted). The speculative risk of a possible injury is not enough; the threatened  
15 harm must be imminent. *Caribbean Marine Services Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th  
16 Cir. 1988); Fed. R. Civ. Proc. 65(b)(1)(A).

17 Based on the current record, the Court cannot make a determination at this time that  
18 Plaintiff has demonstrated a likelihood of success on the merits. Plaintiff has no evidence that  
19 Defendants have secured any business that would have otherwise gone to Union Bank since the  
20 date they left Plaintiff's employment. Further, Defendants have submitted evidence that they are  
21 not actively soliciting any of Plaintiff's customers that were in the pipeline at the time they left  
22 Plaintiff's employment. *See* Dkts. #18-29 and 51-54. Neither party has submitted sufficient  
23 evidence demonstrating that confidential documents or trade secrets were or were not removed  
24 from Union Bank when Defendants left Plaintiff's employment. Given the state of the evidence,  
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1 the Court cannot conclude at this stage of the proceedings that Plaintiff is likely to succeed on the  
2 merits of any of its claims.

3 More importantly, Plaintiff fails to demonstrate irreparable harm. Indeed, Plaintiff fails to  
4 address irreparable harm at all in its written briefing. *See* Dkt. #35. When asked during oral  
5 argument why monetary damages were not sufficient in this case, Plaintiff did not substantively  
6 respond. Instead, Plaintiff pointed to a single exhibit, Exhibit 4 of Plaintiff's exhibits submitted  
7 during oral argument, which contained an email from Bianca Mack dated July 17, 2017. Plaintiff  
8 did not explain how this exhibit demonstrated irreparable harm. Accordingly, the Court agrees  
9 with Defendants that Plaintiff's alleged damages on each one of its claims consist of lost  
10 customers, lost sales, and lost employees, which losses can be calculated in terms of monetary  
11 damages. *See* Dkt. #18 at 28. Where damages are readily calculable, a party cannot show  
12 irreparable harm and injunctive relief is not appropriate. *Goldie's Bookstore, Inc. v. Superior*  
13 *Court of Cal.*, 739 F.2d 466, 471 (9<sup>th</sup> Cir. 1984).  
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17 For these reasons, the Court finds that Plaintiff has failed to demonstrate that a preliminary  
18 injunction is warranted in this matter. Accordingly, Plaintiff's Motion for Preliminary Injunction  
19 (Dkt. #5) is DENIED.  
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21 DATED this 11 day of December, 2017.

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24 RICARDO S. MARTINEZ  
25 CHIEF UNITED STATES DISTRICT JUDGE  
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